

June 25, 2002

PIM #02-04

MEMORANDUM

TO: District Directors
Environmental Health Managers
Food Standardization Officers
Division of Food and Environmental Services Staff

THROUGH: Robert B. Stroube, M.D., M.P.H.
State Health Commissioner

FROM: Gary L. Hagy, Director
Division of Food and Environmental Services

SUBJECT: Establishment Fees

This PIM establishes the Department's policy regarding the collection of establishment permit renewal and plan review fees. The collection of fees was approved by the General Assembly as part of the budget bill.

Please insert this document in your PIM manual and distribute copies to all persons in your district working in your foodservice protection, hotel, campground, and summer camp programs. Please note that the effective date is July 1, 2002.

If you have any questions, please contact me.

Program: Food, Hotel, Campground and Summer Camp

Subject: Fees for Service

Objective: The 2002 General Assembly, in the Governor's budget bill (House Bill 30, Item 314), authorized the Health Commissioner to develop a plan to collect fees from certain permitted establishments. This PIM establishes the Department's policy regarding these fees.

Authority: The budget bill, House Bill 30, Item 314, authorizes the Health Commissioner to develop: 1) a plan and specification review fee AND 2) an annual permit renewal fee, which may be collected from all establishments except K-12 public schools, "that are subject to inspection by the Department of Health" pursuant to §§ 35.1-13 (hotels), -14 (restaurants), -16 (summer camps) and -17 (campgrounds). The bill authorizes the Commissioner to charge a fee for EACH of these items, not to exceed \$40 per year. When both fees are applied to a single facility, the combined total of the fees may not exceed \$80.

Background: Due to budget shortfalls in the next biennial budget, the General Assembly, by passing the Appropriations Act, removed general funds for the programs in Title 35.1. The only way that we can operate these programs is to collect fees to replace the lost general funds and therefore, the authorization for fees was passed to assist the Department in meeting its statutory requirements. This authorization for fees expires on June 30, 2004.

Procedures: Effective July 1, 2002, fees will be charged for permit renewals, new permits, and plan reviews associated with restaurants and hotels. Fees for campgrounds and summer camps will not be assessed until April 1, 2003. The following outlines the procedures.

Exempt facilities: Public schools, K-12, are exempt from any fees. Private schools, state and private colleges and universities are NOT exempt.

New Establishments: If a new establishment is proposed and plans are required for review, a \$40 plan review fee will be charged to the owner. The \$40 shall be submitted with the plans when they are submitted for review. When the permit is issued for the establishment, a \$40 fee will be collected before the permit is issued.

Existing Establishments: Effective July 1, 2002, a \$40 fee will be charged for permits for hotels and food establishments. Effective April 1, 2003, a \$40 fee will be charged for campground and summer camp permits in effect on or issued after that date. Such fee shall be in effect for 12 months after payment unless there is a change of ownership. For those districts that stagger their food establishment and hotel permits expiration throughout the year, the fee will be due by the expiration date of the permit in effect on July 1, 2002. If an existing establishment proposes to modify or change their operation, and plans are required to be submitted, a \$40 plan review fee will be collected when the plans are submitted for review. The budget bill caps the plan review fee at \$40 per year for any single owner. Therefore, if an establishment proposes additional changes during the year and plans are again required, there is no fee for the additional plan reviews. For the purposes of this policy, the year period for calculating plan review fees shall be concurrent with the life of the permit, i.e., when the permit expires and a new permit is issued, a new year is started for purposes of capping plan review fees.

Change in Ownership: When an establishment changes ownership, a new permit must be issued to the new owner and a \$40 permit fee shall be collected from the new owner prior to issuing the new permit. Likewise, if the change in ownership requires submission of plans, the new owner will be charged a \$40 plan review fee regardless of when the previous owner may have paid a plan review fee.

Temporary Food Establishments: A \$40 permit fee will be charged to the temporary food establishment permit holder for the first permit he or she acquires during the year. Additional fees will not be charged for future temporary permits. The permit holder should retain the receipt showing the fee has been paid and show it to local health departments when he or she applies for permits later in the year. If an applicant cannot produce a receipt, and the local health department cannot verify that a fee has been paid that fiscal year, then a \$40 fee will be charged. If the applicant later produces a receipt showing that he or she previously paid a fee, then the latter fee will be refunded. Organizations that are exempt under the *Code of Virginia* §35.1-25 and §35.1-26 are exempt from temporary permit fees even if they are participating in a non-exempt temporary event.

Bed and Breakfast Establishments: A bed and breakfast establishment that serves only breakfast and serves it only to overnight guests will pay one fee. These facilities are not food establishments under the Food Regulations but they may choose to be permitted if they desire. If they choose to be permitted as a food establishment, then they will still pay only one \$40 fee. If the bed and breakfast establishment serves more than breakfast or does not limit their food service to their overnight guests, then they will be charged two \$40 permit fees, one for the hotel permit and one

for the food establishment permit. For plan reviews, if a new establishment is proposed, and plans are submitted for the food service and for the lodging accommodations, then two \$40 plan review fees shall be collected. Likewise, for existing establishments, the number of fees required shall be determined based on the type of plans submitted, i.e., if the plans are for either the lodging accommodations or the food service portion only, one \$40 fee will be charged. If the plans are for both lodging and foodservice, then two \$40 fees will be charged.

Hotels: Hotels will be charged an annual renewal fee of \$40. Hotels shall be notified that their self-renewing permits will not renew until the annual fee is paid.

Relationship to Local Fees: In localities that imposed local fees (permit fees, application fees, inspection fees, risk assessment fees or similar fees), under local ordinance, as of January 1, 2002, the total of the locally imposed fee and the fee authorized by the budget bill shall not exceed \$40. For example, if the locality has a \$25 application or permit fee that was in effect on January 1, 2002, then only \$15 can be collected from the establishments in that locality. If a locality raises, or initiates, fees above that collected on January 1, 2002, then the new fee will not reduce the state's portion, which is the difference between \$40 and the fee charged on January 1, 2002, i.e. the local fee will be in addition to the \$40 fee collected by the health department.

Revocation of Permits: If a permit is revoked, and the former permit holder applies for new permit, then a new \$40 fee will be required.

Withdrawal of Application for a Permit: If an applicant withdraws his or her application before the permit is issued, then the \$40 fee shall be refunded. The plan review fee is non-refundable.

Enforcement:

Plans will not be accepted from the applicant or owner until they are submitted with the appropriate fee. Permits shall not be issued or renewed until the permit fee is paid. In the event an existing establishment fails to pay the renewal fee, the permit shall expire and the owner notified of the expiration. If the owner continues to operate after the permit expiration, then appropriate enforcement action shall be taken, i.e., a summons to appear in general district court should be issued to the owner. If additional enforcement action is necessary, then consult the Division of Food and Environmental Services or the Office of the Attorney General.

Responsibility:

The district Environmental Health Manager is responsible for the implementation of these procedures by the district Environmental Health Specialists.

Effective Date: July 1, 2002.

Approved by: _____
State Health Commissioner

**Additional Fee Collection Guidance
Restaurant Permit (new and renewals), Plan reviews**

Permanent Establishments:

- Plan Reviews include reviews of permanent restaurant facilities, either new or plans for remodeling. Plan reviews do NOT include review of set-up and layout of temporary facilities.
- Permit renewals for permanent establishments shall require an application. This applies to new and renewal permit applications. A statement shall be added to all applications for a restaurant permit (or hotel permit) that states a fee is required with the application.
- The district shall print out the “Facility Print Form” in HealthSpace for each food establishment at least 30 days and not more than 60 days in advance of current permit expiration. (In HealthSpace, on the food facility form, select “Facility Print Form” from the toolbar.) A cover letter should be included requesting the owner to verify data on file, make corrections and return the signed application along with required fee.
- The districts may fax or send these notices by regular mail. We have asked HealthSpace if the Facility Print Form can be exported to a format that can be emailed. Original signed application with check must be returned prior to the expiration of the existing permit or a notice of permit expiration shall be sent.

Temporary Vendor Permitting

- Temporary permit fees apply to the fiscal year. Permanent facility permit fees are collected on the calendar year coinciding with the date of issue of their permit.
- Whenever possible, attempt to coordinate advance application and remittance of fees for temporary vendors through the event coordinator. This should include providing the event coordinator with applications and cover letters to send to vendors in advance. Determine in advance with the event coordinator if they will support and assist in requiring all advance registrations.
- Add onto all temporary restaurant applications language that states a fee is required with the application.
- Cover letters should inform the vendor of the new fee requirement, the need to keep their receipt for verification of payment of the fee or they will be required to pay again. The letter should state the expiration date of the fee waiver (i.e. at the end of the fiscal year – June 30, XXXX).
- If vendors are discovered at the event who have not applied and/or paid their fee in advance, two options are available once it is determined that a fee is required: 1) If the vendor pays the fee by check or money order, a standard state receipt (ADM 1304) must be issued. Include on the receipt a note that the receipt is valid for proof of payment until the end of the current fiscal year, identifying the date as June 30, XXXX. Inform the vendor they must produce this receipt to local health departments in the Commonwealth when applying for a permit to operate in order to avoid paying the annual fee again. 2) If the vendor is not able to pay via check or money order at the time of our inspection, provide the vendor with an invoice with instructions to remit payment within 15 days.
- Checks and money orders shall be made payable to the Commonwealth of Virginia, NOT to cash or the employee.
- UNDER NO CIRCUMSTANCES IS CASH TO BE COLLECTED FROM A VENDOR.

Administrative processes for Temporary Food Permits:

- The district shall maintain a separate receipt book specifically for EH Outreach for use in the field when an unpaid vendor is found. This receipt book shall be locked up whenever not in use in the field by staff and shall be used for no other purpose. More than one EH outreach receipt book may have to be used if multiple events are held at the same time or if more than one EHS is in the field at the event.
- A log shall be maintained to track the use of receipt books for EH Outreach to include who/when they are checked out for use.
- A separate deposit shall be made of funds collected by EH using this receipt book and the process must follow established State and Agency policies and procedures.
- Upon completion of event permitting and inspecting, the EH Outreach receipt book, the Temporary Permit Tracking Log, and any funds collected shall be returned to the office and locked in a secure location. This includes weekends. NO funds shall be taken home by any staff member for ANY reason.
- Receipts and Permit Tracking Log shall be reconciled by the appropriate staff member on the next business day. Accounts receivables shall be created for the vendors issued invoices.
- Fees for multiple establishments owned by a single owner may be paid in a single payment to the district when all establishments are operated within the DISTRICT. If establishments are operated in multiple districts, the owner shall be required to make application and remit fees to the appropriate districts where the establishments are located.
- The fee applies to EACH permit issued.
- Only standard state receipt ADM 1304 is acceptable as proof of having paid a temporary permit fee.
- If a check for payment of a fee is returned for non-sufficient funds, this shall be considered the same as not paying the fee. A permit may be revoked in this instance and future application for a any permit may be denied until the fee is paid.

NOTE: HealthSpace has been asked to create the Temporary Vendor Database with a feature that will allow staff to identify a vendor who has not paid his fee when invoiced or whose check was returned unpaid.